

## **FAIR HOUSING LAWS**

### **Attachment A**

#### **Elliott Larsen Civil Rights Act**

Public Act #453

Prohibits employers consisting of one or more employees, both public and private, employment agencies, labor organizations, from discriminating against an employee or an applicant for employment based on the employee/applicant's race, color, religion, national origin, age, sex (including pregnancy and sexual harassment), height, weight, or marital status. It is further unlawful to discriminate against a person in retaliation for opposing a violation of this Act, making a charge, a complaint, testifying or participating in an investigation, proceeding or hearing under this Act. The Act covers not only employment discrimination, but also housing, real estate transactions, educational institutions, public accommodation, law enforcement, and public services.

See Housing Article 5.

Act No. 453  
Public Acts of 1976  
Approved by Governor  
January 13, 1977

As Amended by  
Act 162, Public Acts of 1977  
Act 153, Public Acts of 1978  
Act 446, Public Acts of 1978  
Act 93, Public Acts of 1980  
Act 170, Public Act of 1980  
Act 202, Public Acts of 1980  
Act 45, Public Acts of 1982  
Act 512, Public Acts of 1982  
Act 11, Public Acts of 1991  
Act 70, Public Acts of 1992  
Act 124, Public Acts of 1992  
Act 258, Public Acts of 1992  
Act 216, Public Acts of 1993  
Act 88, Public Acts of 1995  
Act 202, Public Acts of 1999

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# ELLIOTT- LARSEN CIVIL RIGHTS ACT

AN ACT to define civil rights; to prohibit discriminatory practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex, height, weight, familial status, or marital status; to preserve the confidentiality of records regarding arrest, detention, or other disposition in which a conviction does not result; to prescribe the powers and duties of the civil rights commission and the department of civil rights; to provide remedies and penalties; to provide for fees; and to repeal certain acts and parts of acts.

*The People of the State of Michigan enact:*

## ARTICLE I

Sec. 101. This act shall be known and may be cited as the "Elliott-Larsen Civil Rights Act."

Sec. 102. (1) The opportunity to obtain employment, housing and other real estate, and the full and equal utilization of public accommodations, public service, and educational facilities without discrimination because of religion, race, color, national origin, age, sex, height, weight, familial status, or marital status as prohibited by this act, is recognized and declared to be a civil right.

(2) This section shall not be construed to prevent an individual from bringing or continuing an action arising out of sex discrimination before July 18, 1980 which action is based on conduct similar to or identical to harassment.

(3) This section shall not be construed to prevent an individual from bringing or continuing an action arising out of sex discrimination based on familial status before effective date of the amendatory act that added this subsection which action is based on conduct similar to or identical to discrimination because of the age of persons residing with the individual bringing or continuing the action.

Sec. 103. As used in this act:

- (a) "Age" means chronological age except as otherwise provided by law.
- (b) "Commission" means the civil rights commission established by section 29 of article 5 of the state constitution of 1963.
- (c) "Commissioner" means a member of the commission.
- (d) "Department" means the department of civil rights or its employees.
- (e) "Familial status" means 1 or more individuals under the age of 18 residing with a parent or other person having custody or in the process of securing legal custody of the individual or individuals or residing with the designee of the parent or other person having or securing custody, with the written permission of the parent or other person. For purposes of this definition, "parent" includes a person who is pregnant.
- (f) "National origin" includes the national origin of an ancestor.

(g) "Person" means an individual, agent, association, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated organization, the state or a political subdivision of the state or an agency of the state, or any other legal or commercial entity.

(h) "Political subdivision" means a county, city, village, township, school district, or special district or authority of the state.

(i) Discrimination because of sex includes sexual harassment. Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature under the following conditions:

(i) Submission to the conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations or public services, education, or housing.

(ii) Submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or public services, education, or housing.

(iii) The conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.

## ARTICLE 2

Sec. 201. As used in this article:

(a) "Employer" means a person who has 1 or more employees, and includes an agent of that person.

(b) "Employment agency" means a person regularly undertaking with or without compensation to procure, refer, recruit, or place an employee for an employer or to procure, refer, recruit, or place for an employer or person the opportunity to work for an employer and includes an agent of that person.

(c) "Labor organization" includes:

(i) An organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(ii) A conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization.

(iii) An agent of a labor organization.

(d) "Sex" includes, but is not limited to, pregnancy, childbirth, or a medical condition related to pregnancy or childbirth that does not include nontherapeutic abortion not intended to save the life of the mother.

Sec. 202. (1) An employer shall not do any of the following:

(a) Fail or refuse to hire, or recruit, or discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment, because of religion, race, color, national origin, age, sex, height, weight, or marital status.

(b) Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive the employee or applicant of an employment opportunity, or otherwise adversely affects the status of an employee or applicant because of religion, race, color, national origin, age, sex, height, weight, or marital status.

(c) Segregate, classify, or otherwise discriminate against a person on the basis of sex with respect to a term, condition, or privilege of employment, including a benefit plan or system.

(d) Until January 1, 1994, require an employee of an institution of higher education who is serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure, to retire from employment on the basis of the employee's age. As used in this subdivision, "institution of higher education" means a public or private university, college, community college, or junior college located in this state.

(2) This section shall not be construed to prohibit the establishment or implementation of a bona fide retirement policy or system that is not a subterfuge to evade the purposes of this section.

(3) This section does not apply to the employment of an individual by his or her parent, spouse, or child.

Sec. 202a. (1) An employer shall do both of the following if that employer lists racial or ethnic classifications in a writing developed or printed 90 or more days after the effective date of this section, and if that employer requests that an individual select a classification to designate his or her race or ethnicity:

(a) Include in the writing the term “multiracial” as a classification, and a definition of that term that substantially provides that “multiracial” means having parents of different races

(b) Exclude from the writing the term “other” as a classification.

(2) If a federal agency requires an employer to transmit information obtained from an individual pursuant to a writing described in subsection (1), but rejects the classification “multiracial”, the employer shall redesignate the individuals identified as multiracial by allocating those individuals to racial or ethnic classifications approved by the federal agency in the same ratio that those classifications occur within the general population of the group from which the information was solicited.

(3) As used in this section, “writing” means that term as defined in section 2 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.232 of the Michigan Compiled Laws.

Sec. 203. An employment agency shall not fail or refuse to procure, refer, recruit, or place for employment, or otherwise discriminate against, an individual because of religion, race, color, national origin, age, sex, height, weight, or marital status; or classify or refer for employment an individual on the basis of religion, race, color, national origin, age, sex, height, weight, or marital status.

Sec. 204. A labor organization shall not:

(a) Exclude or expel from membership, or otherwise discriminate against, a member or applicant for membership because of religion, race, color, national origin, age, sex, height, weight, or marital status.

(b) Limit, segregate, or classify membership or applicants for membership, or classify or fail or refuse to refer for employment an individual in a way which would deprive or tend to deprive that individual of an employment opportunity, or which would limit an employment opportunity, or which would adversely affect wages, hours, or employment conditions, or otherwise adversely affect the status of an employee or an applicant for employment, because of religion, race, color, national origin, age, sex, height, weight, or marital status.

(c) Cause or attempt to cause an employer to violate this article.

(d) Fail to fairly and adequately represent a member in a grievance process because of religion, race, color, national origin, age, sex, height, weight, or marital status.

Sec. 205. An employer, labor organization, or joint labor-management committee controlling an apprenticeship, on the job, or other training or retraining program, shall not discriminate against an individual because of religion, race, color, national origin, age, sex, height, weight, or marital status, in admission to, or employment or continuation in, a program established to provide apprenticeship on the job, or other training or retraining.

Sec. 205a. (1) An employer, employment agency, or labor organization, other than a law enforcement agency of this state or a political subdivision of this state, shall not in connection with an application for employment or membership, or in connection with the terms, conditions, or privileges of employment or membership request, make, or maintain a record of information regarding a misdemeanor arrest, detention, or disposition where a conviction did not result. A person is not guilty of perjury or otherwise giving a false statement by failing to recite or acknowledge information the person has a civil right to withhold by this section. This section shall not apply to information relative to a felony charge before conviction or dismissal.

(2) As used in this section, “law enforcement agency” includes the state department of corrections.

Sec. 206. (1) An employer, labor organization, or employment agency shall not print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign relating to employment by the employer, or relating to membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, which indicates a preference, limitation, specification, or discrimination, based on religion, race, color, national origin, age, sex, height, weight, or marital status.

(2) Except as permitted by rules promulgated by the commission or by applicable federal law, an employer or employment agency shall not:

(a) Make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the religion, race, color, national origin, age, sex, height, weight, or marital status of a prospective employee.

(b) Make or keep a record of information described in subdivision (a) or to disclose that information.

(c) Make or use a written or oral inquiry or form of application that expresses a preference, limitation, specification, or discrimination based on religion, race, color, national origin, age, sex, height, weight, or marital status of a prospective employee.

Sec. 207. An individual seeking employment shall not publish or cause to be published a notice or advertisement that specifies or indicates the individual's religion, race, color, national origin, age, sex, height, weight, or marital status, or expresses a preference, specification, limitation, or discrimination as to the religion, race, color, national origin, age, height, weight, sex, or marital status of a prospective employer.

Sec. 208. A person subject to this article may apply to the commission for an exemption on the basis that religion, national origin, age, height, weight, or sex is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise. Upon sufficient showing, the commission may grant an exemption to the appropriate section of this article. An employer may have a bona fide occupational qualification on the basis of religion, national origin, sex, age, or marital status, height and weight without obtaining prior exemption from the commission, provided that an employer who does not obtain an exemption shall have the burden of establishing that the qualification is reasonably necessary to the normal operation of the business.

Sec. 209. A contract to which the state, a political subdivision, or an agency thereof is a party shall contain a covenant by the contractor and his subcontractors not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Breach of this covenant may be regarded as a material breach of the contract.

Sec. 210. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to religion, race, color, national origin, or sex if the plan is filed with the commission under rules of the commission and the commission approves the plan.

Sec. 211. Notwithstanding any other provision of this article, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system.

### ARTICLE 3

Sec. 301. As used in this article:

(a) "Place of public accommodation" means a business, or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public. Place of public accommodation also includes the facilities of the following private clubs:

(i) A country club or golf club.

(ii) A boating or yachting club.

(iii) A sport or athletic club.

(iv) A dining club, except a dining club that in good faith limits its membership to the members of a particular religion for the purpose of furthering the teachings or principles of that religion, and not for the purpose of excluding individuals of a particular gender, race, or color.

(b) "Public service" means a public facility, department, agency, board, or commission, owned, operated, or managed by or on behalf of the state, a political subdivision, or an agency thereof, or a tax exempt private agency established to provide service to the public, except that public service does not include a state or county correctional facility with respect to actions and decisions regarding an individual serving a sentence of imprisonment.

Compilers Note: Enacting section 1. This amendatory act is curative and intended to correct any misinterpretation of legislative intent in the court of appeals decision *Neal v Department of Corrections*. 232 Mich App 730 (1998). This legislation further expresses the original intent of the legislature that an individual serving a sentence of imprisonment in a state or county correctional facility is not within the purview of this act.

Sec. 302. Except where permitted by law, a person shall not:

(a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service because of religion, race, color, national origin, age, sex, or marital status.

(b) Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of religion, race, color, national origin, age, sex, or marital status, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of religion, race, color, national origin, age, sex, or marital status.

Sec. 302a. (1) This section applies to a private club that is defined as a place of public accommodation pursuant to section 301(a)

(2) If a private club allows use of its facilities by 1 or more adults per membership, the use must be equally available to all adults entitled to use the facilities under the membership. All classes of membership shall be available without regard to race, color, gender, religion, marital status, or national origin. Memberships that permit use during restricted times may be allowed only if the restriction times apply to all adults using that membership.

(3) A private club that has food or beverage facilities or services shall allow equal access to those facilities and services for all adults in all membership categories at all times. This subsection shall not require service or access to facilities to persons that would violate any law or ordinance regarding sale, consumption, or regulation of alcoholic beverages.

(4) This section does not prohibit a private club from sponsoring or permitting sports schools or leagues for children less than 18 years of age that are limited by age or to members of 1 sex, if comparable and equally convenient access to the club's facilities is made available to both sexes and if these activities are not used as a subterfuge to evade the purposes of this article.

Sec. 303. This article shall not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation or is licensed by the state under Act No. 8 of the Public Acts of the extra session of 1933, being sections 436.1 through 436.58 of the Michigan Compiled Laws. This section shall not apply to a private club that is otherwise defined as a place of public accommodation in this article.

Sec. 304. Within 30 days after a determination by the commission that a place of public accommodation that holds a license issued by the liquor control commission under the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being sections 436.1 to 436.58 of the Michigan Compiled Laws, has violated this article, the commission shall certify that determination to and shall file a complaint alleging a violation of Act No. 8 of the Public Acts of the Extra Session of 1933 with the liquor control commission.

#### **ARTICLE 4**

Sec. 401. As used in this article, "educational institution" means a public or private institution, or a separate school or department thereof, and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, local school system, university, or a business, nursing, professional, secretarial, technical, or vocational school; and includes an agent of an educational institution.

Sec. 402. An educational institution shall not do any of the following:

(a) Discriminate against an individual in the full utilization of or benefit from the institution, or the services, activities, or programs provided by the institution because of religion, race, color, national origin, or sex.

(b) Exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution, because of religion, race, color, national origin, or sex.

(c) For purposes of admission only, make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the religion, race, color, national origin, age, sex, or marital status of a person, except as permitted by rule of the commission or as required by federal law, rule, or regulation, or pursuant to an affirmative action program.

(d) Print or publish or cause to be printed or published a catalog, notice, or advertisement indicating a preference, limitation, specification, or discrimination based on the religion, race, color, national origin, or sex of an applicant for admission to the educational institution.

(e) Announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of religion, race, color, national origin, or sex.

Sec. 402a. (1) An educational institution shall do both of the following if that employer lists racial or ethnic classifications in a writing developed or printed 90 or more days after the effective date of this section, and if that educational institution requests that an individual select a classification to designate his or her race or ethnicity:

(a) Include in the writing the term “multiracial” as a classification, and a definition of that term that substantially provides that “multiracial” means having parents of different races

(b) Exclude from the writing the term “other” as a classification.

(2) If a federal agency requires an educational institution to transmit information obtained from an individual pursuant to a writing described in subsection (1), but rejects the classification “multiracial”, the educational institution shall redesignate the individuals identified as multiracial by allocating those individuals to racial or ethnic classifications approved by the federal agency in the same ratio that those classifications occur within the general population of the group from which the information was solicited.

(3) As used in this section, “writing” means that term as defined in section 2 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.232 of the Michigan Compiled Laws.

Sec. 403. The provisions of section 402 related to religion shall not apply to a religious educational institution or an educational institution operated, supervised, or controlled by a religious institution or organization which limits admission or gives preference to an applicant of the same religion.

Sec. 404. The provisions of section 402 relating to sex shall not apply to a private educational institution not exempt under section 403, which now or hereafter provides an education to persons of 1 sex.

## **ARTICLE 5**

Sec. 501. As used in this article:

(a) “Real property” includes a building; structure, mobile home, real estate, land, mobile home park, trailer park, tenement, leasehold, or an interest in a real estate cooperative or condominium.

(b) “Real estate transaction” means the sale, exchange, rental, or lease of real property, or an interest therein.

(c) “Housing accommodation” includes improved or unimproved real property, or a part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of 1 or more persons.

(d) “Real estate broker or salesman” means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property; who negotiates or attempts to negotiate any of those activities; who holds himself out as engaged in those activities; who negotiates or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon real property; who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of a real estate broker or salesman.

Sec. 502. (1) A person engaging in a real estate transaction, or a real estate broker or salesman, shall not on the basis of religion, race, color, national origin, age, sex, familial status, or marital status of a person or a person residing with that person:

(a) Refuse to engage in a real estate transaction with a person.

(b) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.

(c) Refuse to receive from a person or transmit to a person a bona fide offer to engage in a real estate transaction.

(d) Refuse to negotiate for a real estate transaction with a person.

(e) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or knowingly fail to bring a property listing to a person’s attention, or refuse to permit a person to inspect real property, or otherwise make unavailable or deny real property to a person.

(f) Make, print, circulate, post, mail, or otherwise cause to be made or published a statement, advertisement, notice, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection

with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a preference, limitation, specification, or discrimination with respect to the real estate transaction.

(g) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith.

(h) Discriminate against a person in the brokering or appraising of real property.

(2) A person shall not deny a person access to, or membership or participation in, a multiple listing service, real estate broker's organization or other service, organization, or facility relating to the business of selling or renting real property or to discriminating against him or her in the terms or conditions of that access, membership, or participation because of religion, race, color, national origin, age, sex, familial status, or marital status.

(3) This section is subject to section 503.

Sec. 503. (1) Section 502 does not apply to any of the following:

(a) The rental of a housing accommodation in a building that contains housing accommodations for not more than 2 families living independently of each other if the owner or a member of the owner's immediate family resides in 1 of the housing accommodations, or to the rental of a room or rooms in a single family dwelling by a person if the lessor or a member of the lessor's immediate family resides in the dwelling.

(b) The rental of a housing accommodation for not more than 12 months by the owner or lessor where it was occupied by him or her and maintained as his or her home for at least 3 months immediately preceding occupancy by the tenant and is maintained as the owner's or lessor's legal residence.

(c) With respect to the age provision and the familial status provision only, to the sale, rental, or lease of housing accommodations meeting the requirements of federal, state, or local housing programs for senior citizens, or accommodations otherwise intended, advertised, designed or operated, bona fide, for the purpose of providing housing accommodations for persons 50 years of age or older.

(2) As used in subsection (1), "immediate family" means a spouse, parent, child, or sibling.

(3) Information relative to the marital status of an individual may be obtained when necessary for the preparation of a deed or other instrument of conveyance.

Sec. 504. (1) A person to whom application is made for financial assistance or financing in connection with a real estate transaction or in connection with the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of that person, shall not:

(a) Discriminate against the applicant because of the religion, race, color, national origin, age, sex, familial status, or marital status of the applicant or a person residing with the applicant.

(b) Use a form of application for financial assistance or financing or make or keep a record or inquiry in connection with an application for financial assistance or financing which indicates, directly or indirectly, a preference, limitation, specification, or discrimination as to the religion, race, color, national origin, age, sex, familial status, or marital status of the applicant or a person residing with the applicant.

(2) A person whose business includes engaging in real estate transactions shall not discriminate against a person because of religion, race, color, national origin, age, sex, familial status, or marital status, in the purchasing of loans for acquiring, constructing, improving, repairing, or maintaining a dwelling or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate.

(3) Subsection (1)(b) does not apply to a form of application for financial assistance prescribed for the use of a lender regulated as a mortgagee under the national housing act chapter 847, 48 Stat. 1246, or by a regulatory board or officer acting under the statutory authority of this state or the United States.

Sec. 505. (1) A condition, restriction, or prohibition, including a right of entry or possibility of reverter, that directly or indirectly limits the use or occupancy of real property on the basis of religion, race, color, national origin, age, sex, familial status, or marital status is void, except a limitation of use as provided in Section 503(l)(c) or on the basis of religion relating to real property held by a religious institution or organization, or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purposes.

(2) A person shall not insert in a written instrument relating to real property a provision that is void under this section or honor such a provision in the chain of title.



Sec. 506. A person shall not represent, for the purpose of inducing a real estate transaction from which the person may benefit financially, that a change has occurred or will or may occur in the composition with respect to religion, race, color, national origin, age, sex, familial status, or marital status of the owners or occupants in the block, neighborhood, or area in which the real property is located, or represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

Sec. 506a. This article does not preclude the use by a landlord or reasonable accommodations as required by section 102(2) of the persons with disabilities civil rights act, Act No. 220 of the Public Acts of 1976, being section 37.1102 of the Michigan Compiled Laws.

Sec. 507. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to religion, race, color, national origin, or sex if the plan is filed with the commission under rules of the commission and the commission approves the plan.

## **ARTICLE 6**

Sec. 601. (1) The commission shall:

(a) Maintain a principal office in the city of Lansing and other offices within the state as it considers necessary.

(b) Meet and exercise its powers at any place within the state.

(c) Appoint an executive director who shall be the chief executive officer of the department and exempt from civil service, and appoint necessary hearing examiners.

(d) Accept public grants, private gifts, bequests, or other amounts or payments.

(e) Prepare annually a comprehensive written report to the governor. The report may contain recommendations adopted by the commission for legislative or other action necessary to effectuate the purposes and policies of this act.

(f) Promulgate, amend, or repeal rules to carry out this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(g) Request the services of a department or agency of the state or a political subdivision of the state.

(h) Promote and cooperate with a public or governmental agency as in the commission's judgment will aid in effectuating the act and the state constitution of 1963.

(i) Establish and promulgate rules governing its relationship with local commissions, and establish criteria for certifying local commissions for the deferring of complaints.

(2) The commission may hold hearings, administer oaths, issue preliminary notices to witnesses to appear, compel through court authorization the attendance of witnesses and the production for examination of books, papers, or other records relating to matters before the commission, take the testimony of a person under oath, and issue appropriate orders. The commission may promulgate rules as to the issuance of preliminary notices to appear.

(3) A majority of the members of the commission constitutes a quorum. A majority of the members is required to take action on matters not of a ministerial nature, but a majority of a quorum may deal with ministerial matters. A vacancy in the commission shall not impair the right of the remaining members to exercise the powers of the commission. The members of the commission shall receive a per diem compensation and shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties. The per diem compensation of the commission and the schedule for reimbursement of the expenses shall be established annually by the legislature.

(4) The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(5) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 602. The department shall:

- (a) Be responsible to the executive director, who shall be the principal executive officer of the department and shall be responsible for executing the policies of the commission.
- (b) Appoint necessary employees and agents and fix their compensation in accordance with civil service rules. The attorney general shall appear for and represent the department or the commission in a court having jurisdiction of a matter under this act.
- (c) Receive, initiate, investigate, conciliate, adjust, dispose of, issue charges, and hold hearings on complaints alleging a violation of this act, and approve or disapprove plans to correct past discriminatory practices which have caused or resulted in a denial of equal opportunity with respect to groups or persons protected by this act.
- (d) Require answers to interrogatories, order the submission of books, papers, records, and other materials pertinent to a complaint, and require the attendance of witnesses, administer oaths, take testimony, and compel, through court authorization, compliance with its orders or an order of the commission.
- (e) Cooperate or contract with persons and state, local, and other agencies, both public and private, including agencies of the federal government and of other states.
- (f) Monitor the awarding and executing of contracts to ensure compliance by a contractor or a subcontractor with a covenant entered into or to be entered into pursuant to section 209.

Sec. 603. At any time after a complaint is filed, the department may file a petition in the circuit court for the county in which the subject of the complaint occurs, or for the county in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this section, including an order or decree restraining the respondent from doing or procuring an act tending to render ineffectual an order the commission may enter with respect to the complaint. If the complaint alleges a violation of article 5, upon the filing of the petition the department shall file for the record a notice of pendency of the action. The court may grant temporary relief or a restraining order as it deems just and proper, but the relief or order shall not extend beyond 5 days except by consent of the respondent, or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice.

Sec. 604. If the commission, after a hearing on a charge issued by the department, determines that the respondent has not engaged in a discriminatory practice prohibited by this act, the commission shall state its findings of fact and conclusions of law and shall issue a final order dismissing the complaint. The commission shall furnish a copy of the order to the claimant, the respondent, the attorney general, and other public officers and persons as the commission deems proper.

Sec. 605. (1) If the commission, after a hearing on a charge issued by the department, determines that the respondent has violated this act, or the persons with disabilities civil rights act, Act No. 220 of the Public Acts of 1976, being sections 37.1101 to 37.1607 of the Michigan Compiled Laws, the commission shall state its findings of fact and conclusions of law and shall issue a final order requiring the respondent to cease and desist from the discriminatory practice and to take such other action as it deems necessary to secure equal enjoyment and protection of civil rights. If at a hearing on a charge, a pattern or practice of discrimination prohibited by this act or Act No. 220 of the Public Acts of 1976 appears in the evidence, the commission may, upon its own motion or on motion of the claimant, amend the pleadings to conform to the proofs, make findings, and issue an order based on those findings. A copy of the order shall be delivered to the respondent, the claimant, the attorney general, and to other public officers and persons as the commission deems proper.

(2) Action ordered under this section may include, but is not limited to:

- (a) Hiring, reinstatement, or upgrading of employees with or without back pay.
- (b) Admission or restoration of individuals to labor organization membership, admission to or participation in a guidance program, apprenticeship training program, on the job training program, or other occupational training or retraining program, with the utilization of objective criteria in the admission of persons to those programs.
- (c) Admission of persons to a public accommodation or an educational institution.
- (d) Sale, exchange, lease, rental, assignment, or sublease of real property to a person.
- (e) Extension to all persons of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the respondent.

(f) Reporting as to the manner of compliance.

(g) Requiring the posting of notices in a conspicuous place which the commission may publish or cause to be published setting forth requirements for compliance with civil rights law or other relevant information which the commission determines necessary to explain those laws.

(h) Payment to an injured party of profits obtained by the respondent through a violation of section 506 of this act or of Act No. 220 of the Public Acts of 1976.

(i) Payment to the complainant of damages for an injury or loss caused by a violation of this act, including a reasonable attorney's fee.

(j) Payment to the complainant of all or a portion of the costs of maintaining the action before the commission, including reasonable attorney fees and expert witness fees, when the commission determines that award to be appropriate.

(k) Payment of civil fine for a violation of article 5 of this act, an amount directly related to the cost to the state for enforcing this statute not to exceed:

(i) \$10,000.00 for the first violation.

(ii) \$25,000.00 for the second violation within a 5-year period.

(iii) \$50,000.00 for 2 or more violations within a 7-year period.

(l) Other relief the commission deems appropriate.

(3) In the case of a respondent operating by virtue of a license issued by the state, a political subdivision, or an agency of the state or political subdivision, if the commission, upon notice and hearing, determines that the respondent has violated this act and that the violation was authorized, requested, commanded, performed, or knowingly permitted by the board of directors of the respondent or by an officer or executive agent acting within the scope of his or her employment, the commission shall so certify to the licensing agency. Unless the commission's finding is reversed in the course of judicial review, the finding of the commission may be grounds for revocation of the respondent's license.

(4) In the case of a respondent who violates this act in the course of performing under a contract or subcontract with the state, a political subdivision, or an agency of the state or political subdivision, where the violation was authorized, requested, commanded, performed, or knowingly permitted by the board of directors of the respondent or by an officer or executive agent acting within the scope of his or her employment, the commission shall so certify to the contracting agency. Unless the commission's finding is reversed in the course of judicial review, the finding is binding on the contracting agency.

Sec. 606. (1) A complainant and a respondent shall have a right of appeal from a final order of the commission, including cease and desist orders and refusals to issue charges, before the circuit court for the county of Ingham, or the circuit court for the county in which the alleged violation occurred or where the person against whom the complaint is filed, resides, or has his or her principal place of business. An appeal before the circuit court shall be reviewed de novo. If an appeal is not taken within 30 days after the service of an appealable order of the commission, the commission may obtain a decree for the enforcement of the order from the circuit court which has jurisdiction of the appeal. If the appellant files for appeal in the circuit court for the county of Ingham, the appellee, upon application, shall be granted a change of venue to hear the matter on appeal in the circuit court for the county in which the alleged violation occurred or where the person against whom the complaint is filed, resides, or has his or her principal place of business or where the claimant resides.

(2) A proceeding for review or enforcement of an appealable order is initiated by filing a petition in the circuit court. Copies of the petition shall be served upon the parties of record. Within 30 days after the service of the petition upon the commission or filing of the petition by the commission, or within further time as the court may allow, the commission shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including a transcript of the testimony, which need not be printed. By stipulation of the parties to the review proceeding, the record may be shortened. The court may grant temporary relief as it considers just, or enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the commission, or may remand the case to the commission for further proceedings. The commission's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(3) The final judgment or decree of the circuit court shall be subject to review by appeal in the same manner and form as other appeals from that court.

(4) A proceeding under this section shall be initiated not more than 30 days after a copy of the order of the commission is received, unless the commission is the petitioner or the petition is filed under subsection (3). If a proceeding is not so initiated, the commission may obtain a court order for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent, that the respondent is subject to the jurisdiction of the court and that the order sought to be enforced is an order of the commission, regularly entered, and the commission has jurisdiction over the subject matter and the respondent.

## **ARTICLE 7**

Sec. 701. Two or more persons shall not conspire to, or a person shall not:

(a) Retaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act.

(b) Aid, abet, incite, compel, or coerce a person to engage in a violation of this act.

(c) Attempt directly or indirectly to commit an act prohibited by this act.

(d) Willfully interfere with the performance of a duty or the exercise of a power by the commission or 1 of its members or authorized representatives.

(e) Willfully obstruct or prevent a person from complying with this act or an order issued or rule promulgated under this act.

(f) Coerce, intimidate, threaten, or interfere with a person in the exercise of enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this act.

Sec. 702. A person shall not violate the terms of an order or an adjustment order made under this act.

Sec. 703. If a certification is made pursuant to section 605(3), the licensing agency may take appropriate action to revoke or suspend the license of the respondent.

Sec. 704. Upon receiving a certification made under section 605(4), a contracting agency shall take appropriate action to terminate a contract or portion thereof previously entered into with the respondent, either absolutely or on condition that the respondent carry out a program of compliance with this act, and shall advise the state and all political subdivisions and agencies thereof to refrain from entering into further contracts or extensions or other modifications of existing contracts with the respondent until the commission is satisfied that the respondent carries out policies in compliance with this act.

Sec. 705. (1) This act shall not be construed as preventing the commission from securing civil rights guaranteed by law other than the civil rights set forth in this act.

(2) This act shall not be interpreted as restricting the implementation of approved plans, programs, or services to eliminate discrimination and the effects thereof when appropriate.

(3) This act shall not be interpreted as invalidating any other act that provides programs or services for persons covered by this act.

## **ARTICLE 8**

Sec. 801. (1) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, or for the county where the person against whom the civil complaint is filed resides or has his principal place of business.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorney's fees.

Sec. 802. A court, in rendering a judgment in an action brought pursuant to this article, may award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant in the action if the court determines that the award is appropriate

Sec. 803. This act shall not be construed to diminish the right of a person to direct or immediate legal or equitable remedies in the courts of this state.

Sec. 804. Act No. 251 of the Public Acts of 1955, as amended, being sections 423.301 to 423.311 of the Compiled Laws of 1970, Act No. 45 of the Public Acts of the Second Extra Session of 1963, as amended, being sections 37.1 to 37.9 of the Compiled Laws of 1970, and Act No. 112 of the Public Acts of 1968, as amended, being sections 564.101 to 564.704 of the Compiled Laws of 1970, are repealed.

\_\_\_\_\_  
Clerk of the House of Representatives.

\_\_\_\_\_  
Secretary of the Senate.

Approved \_\_\_\_\_

\_\_\_\_\_  
Governor.

## **Persons with Disabilities Civil Rights Act**

Public Act #220

Prohibits discrimination based on a person's disability in the areas of employment, housing, real estate and the full equal utilization of public accommodations, public services, and education. A person shall accommodate a person with a disability for purposes of employment, public accommodation, public service, education, or housing unless the person demonstrates that the accommodation would impose an undue hardship.

See Housing Article 5.

Act No. 220  
Public Acts of 1976  
Approved by Governor  
July 28, 1976  
As Amended by  
Act 478, Public Acts of 1980  
Act 121, Public of 1990  
Act 123, Public Acts of 1992  
Act 20, Public Acts of 1998  
Act 201, Public Acts of 1999  
Act 32, Public Acts of 2000

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The People of the State of Michigan enact:

## Persons with Disabilities Civil Rights Act

AN ACT to define the civil rights of persons with disabilities; to prohibit discriminatory practices, policies, and customs in the exercise of those rights; to prescribe penalties and to provide remedies; and to provide for the promulgation of rules.

### ARTICLE 1

Sec. 101. This act shall be known and may be cited as the “persons with disabilities civil rights act”.

Sec. 102. (1) The opportunity to obtain employment, housing, and other real estate and full and equal utilization of public accommodations, public services, and educational facilities without discrimination because of a disability is guaranteed by this act and is a civil right.

(2) Except as otherwise provided in article 2, a person shall accommodate a person with a disability for purposes of employment, public accommodation, public service, education, or housing unless the person demonstrates that the accommodation would impose an undue hardship.

Sec. 103. As used in this act:

- (a) “Alcoholic liquor” means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.
- (b) “Commission” means the civil rights commission established by section 29 of article V of the state constitution of 1963.
- (c) “Controlled substance” means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.
- (d) Except as provided under subdivision (f), “disability” means 1 or more of the following:
  - (i) A determinable physical or mental characteristic of an individual, which may result from disease, injury, congenital condition of birth, or functional disorder, if the characteristic:
    - (A) For purposes of article 2, substantially limits 1 or more of the major life activities of that individual and is unrelated to the individual’s ability to perform the duties of a particular job or position or substantially limits 1 or more of the major life activities of that individual and is unrelated to the individual’s qualifications for employment or promotion.
    - (B) For purposes of article 3, is unrelated to the individual’s ability to utilize and benefit from a place of public accommodation or public service.
    - (C) For purposes of article 4, is unrelated to the individual’s ability to utilize and benefit from educational opportunities, programs, and facilities at an educational institution.
    - (D) For purposes of article 5, substantially limits 1 or more of that individual’s major life activities and is unrelated to the individual’s ability to acquire, rent, or maintain property.
  - (ii) A history of a determinable physical or mental characteristic described in subparagraph (i).

- (iii) Being regarded as having a determinable physical or mental characteristic described in subparagraph (i).
- (e) "Drug" means that term as defined in section 7105 of the public health code, 1978 PA 368, MCL 333.7105.
- (f) For purposes of article 2, "disability" does not include either of the following:
  - (i) A determinable physical or mental characteristic caused by the current illegal use of a controlled substance by that individual.
  - (ii) A determinable physical or mental characteristic caused by the use of an alcoholic liquor by that individual, if that physical or mental characteristic prevents that individual from performing the duties of his or her job.
- (g) "Person" includes an individual, agent, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated organization, this state, or any other legal, commercial, or governmental entity or agency.
- (h) "Person with a disability" or "person with disabilities" means an individual who has 1 or more disabilities.
- (i) "Political subdivision" means a county, city, village, township, school district, or special district or authority of this state.
- (j) "State average weekly wage" means the state average weekly wage as determined by the Michigan employment security commission under section 27 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.27.
- (k) "Temporary employee" means an employee hired for a position that will not exceed 90 days in duration.
- (l) "Unrelated to the individual's ability" means, with or without accommodation, an individual's disability does not prevent the individual from doing 1 or more of the following:
  - (i) For purposes of article 2, performing the duties of a particular job or position.
  - (ii) For purposes of article 3, utilizing and benefiting from a place of public accommodation or public service.
  - (iii) For purposes of article 4, utilizing and benefiting from educational opportunities, programs, and facilities at an educational institution.
  - (iv) For purposes of article 5, acquiring, renting, or maintaining property.

## ARTICLE 2

### Sec. 201. As used in this article:

- (a) "Employee" does not include an individual employed in domestic service of any person.
- (b) "Employer" means a person who has 1 or more employees or a person who as contractor or subcontractor is furnishing material or performing work for the state or a governmental entity or agency of the state and includes an agent of such a person.
- (c) "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.
- (d) "Genetic information" means information about a gene, gene product, or inherited characteristic of an individual derived from the individual's family history or a genetic test.
- (e) "Genetic test" means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition. Genetic test does not include a routine physical examination or a routine analysis including, but not limited to, a chemical analysis of body fluids unless conducted specifically to determine the presence, absence, or mutation of a gene or chromosome.
- (f) "Labor organization" includes:
  - (i) An organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in



whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

- (ii) A conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization.
- (iii) An agent of a labor organization.

Sec. 202 (1) Except as otherwise required by federal law, an employer shall not:

- (a) Fail or refuse to hire, recruit, or promote an individual because of a disability or genetic information that is unrelated to the individual's ability to perform the duties of a particular job or position.
  - (b) Discharge or otherwise discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment, because of a disability or genetic information that is unrelated to the individual's ability to perform the duties of a particular job or position.
  - (c) Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive an individual of employment opportunities or otherwise adversely affects the status of an employee because of a disability or genetic information that is unrelated to the individual's ability to perform the duties of a particular job or position.
  - (d) Fail or refuse to hire, recruit, or promote an individual on the basis of physical or mental examinations that are not directly related to the requirements of the specific job.
  - (e) Discharge or take other discriminatory action against an individual on the basis of physical or mental examinations that are not directly related to the requirements of the specific job.
  - (f) Fail or refuse to hire, recruit, or promote an individual when adaptive devices or aids may be utilized thereby enabling that individual to perform the specific requirements of the job.
  - (g) Discharge or take other discriminatory action against an individual when adaptive devices or aids may be utilized thereby enabling that individual to perform the specific requirements of the job.
  - (h) Require an individual to submit to a genetic test or to provide genetic information as a condition of employment or promotion.
- (2) Subsection (1) does not prohibit an individual from voluntarily providing to an employer genetic information that is related to the employee's health or safety in the workplace. Subsection (1) does not prohibit an employer from using genetic information received from an employee under this subsection to protect the employee's health or safety.
- (3) This section shall not apply to the employment of an individual by his or her parent, spouse, or child.
- (4) Except as otherwise provided in subsection (2), no employer may directly or indirectly acquire or have access to any genetic information concerning an employee or applicant for employment, or a member of the employee's or applicant's family.

Sec. 203. An employment agency shall not fail or refuse to refer for employment, or otherwise discriminate against an individual because of a disability or classify or refer for employment an individual on the basis of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

Sec. 204. A labor organization shall not:

- (a) Exclude or expel from membership, or otherwise discriminate against a member or applicant for membership because of disability that is unrelated to the individual's ability to perform the duties of a particular job or position which entitles the individual to membership.
- (b) Limit, segregate, or classify membership, or applicants for membership, or classify or fail or refuse to refer for employment an individual in a way which would deprive or tend to deprive an individual of employment opportunities, or which would limit employment opportunities or otherwise adversely affect the status of an employee or of an applicant for employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
- (c) Cause or attempt to cause an employer to violate this article.
- (d) Fail to fairly and adequately represent a member in a grievance process because of the member's disability.

Sec. 205. An employer, labor organization, or joint labor management committee controlling apprenticeship, on the job, or other training or retraining programs shall not discriminate against an individual because of a

disability in admission to, or employment or continuation in, a program established to provide apprenticeship or other training.

Sec. 206. (1) An employer, labor organization, or employment agency shall not print or publish or cause to be printed or published a notice or advertisement relating to employment by the employer or membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, indicating a preference, limitation, specification, or discrimination, based on a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

(2) Except as permitted by applicable federal law, an employer or employment agency shall not:

- (a) Make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the disability of a prospective employee for reasons contrary to the provisions or purposes of this act.
- (b) Make or keep a record of information or disclose information concerning the disability of a prospective employee for reasons contrary to the provisions or purposes of this act.
- (c) Make or use a written or oral inquiry or form of application that expresses a preference, limitation, or specification based on the disability of a prospective employee for reasons contrary to the provisions or purposes of this act.

Sec. 208. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to individuals who have disabilities if the plan has been filed with the commission under rules of the commission and the commission has not disapproved the plan.

Sec. 209. A contract to which this state, or a political subdivision, or an agency of this state or of a political subdivision of this state is a party shall contain a covenant by the contractor and any subcontractors not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of this covenant shall be regarded as a material breach of the contract.

Sec. 210. (1) In an action brought pursuant to this article for a failure to accommodate, the person with a disability shall bear the burden of proof. If the person with a disability proves a prima facie case, the person shall bear the burden of producing evidence that an accommodation would impose an undue hardship on that person, the person with a disability shall bear the burden of proving by a preponderance of the evidence that an accommodation would not impose an undue hardship on that person.

- (2) Except as provided in subsections (7), (13), and (17), if the person employs fewer than 4 employees and is required under this article to purchase any equipment or device to accommodate the person with a disability, the total purchase cost required to be paid by that person for that equipment or device is limited to an amount equal to the state average weekly wage. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.
- (3) Except as provided in subsections (7), (13), and (17), if the person employs 4 or more employees but fewer than 15 employees and is required under this article to purchase any equipment or device to accommodate the person with a disability, the total purchase cost required to be paid by that person is limited to an amount equal to 1.5 times the state average weekly wage. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.
- (4) Except as provided in subsections (6), (7), (13), and (17), if the person employs 15 or more employees but fewer than 25 employees and is required under this article to purchase any equipment or device to accommodate the person with a disability, the total purchase cost required to be paid by that person is limited to an amount equal to 2.5 times the state average weekly wage. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation

imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.

- (5) Except as provided in subsections (6), (7), (13), and (17), if the person employs 25 or more employees and to or less than 2.5 times the state average weekly wage, the accommodation does not impose an undue hardship on that person.
- (6) Except as provided in subsections (7), (13), and (17), if the person employs 15 or more employees and the total purchase cost of any equipment or device required to accommodate an employee under this article is equal to or less than 2.5 times the state average weekly wage, the accommodation does not impose an undue hardship on that person.
- (7) Subsections (2) to (6) do not limit the cost of reasonable routine maintenance or repair of equipment or devices needed to accommodate a person with a disability under this article.
- (8) Except as provided in subsections (13) and (17), if the person employs fewer than 4 employees and is required to hire or retain 1 or more individuals as readers or interpreters to accommodate the person with a disability in performing the duties of his or her job, the cost required to be paid by that person is limited to an amount equal to 7 times the state average weekly wage for the first year the person with a disability is hired, promoted, or transferred to that job, and 5 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job, and 5 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.
- (9) Except as provided in subsection (13) and (17), if the person employs 4 or more employees but fewer than 15 employees and is required to hire or retain 1 or more individuals as readers or interpreters to accommodate the person with a disability in performing the duties of his or her job, the cost required to be paid by that person is limited to an amount equal to 10 times the state average weekly wage for the first year the person with a disability is hired, promoted, or transferred to that job, and 7 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.
- (10) Except as provided in subsections (12), (13), and (17), if the person employs 15 or more employees but fewer than 25 employees and is required to hire or retain 1 or more individuals as readers or interpreters to accommodate the person with a disability in performing the duties of his or her job, the cost required to be paid by that person is limited to an amount equal to 15 times the state average weekly wage for the first year the person with a disability is hired, promoted, or transferred to that job, and 10 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job. If the cost of an accommodation under this subsection exceeds the limitation established for that accommodation, the accommodation imposes an undue hardship on that person. If the cost of the accommodation does not exceed the limitation established for that accommodation, the accommodation does not impose an undue hardship on that person.
- (11) Except as provided in subsections (12), (13) and (17), if the person employs 25 or more employees and the cost required to hire or retain 1 or more individuals as readers or interpreters to accommodate the person with a disability in performing the duties of his or her job is less than or equal to 15 times the state average weekly wage for the first year the person with a disability is hired, promoted, or transferred to that job, and is less than or equal to 10 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job, the accommodation does not impose an undue hardship on that person.
- (12) Except as provided in subsections (13) and (17), if the person employs 15 or more employees and the cost required to hire or retain 1 or more individuals as readers or interpreters to accommodate the person with a disability in performing the duties of his or her job is less than or equal to 15 times the state average weekly wage for the first year the person with a disability is hired, promoted, or transferred to that job, and is less than or equal to 10 times the state average weekly wage for each year after the first year the person with a disability is hired, promoted, or transferred to that job, the accommodation does not impose an undue hardship on that person.

- (13) If the person with a disability is a temporary employee, the limitations established for accommodations under subsections (2), (3), (4), (5), (6), (8), (9), (10), (11), and (12), are reduced by 50%.
- (14) A person who employs fewer than 15 employees is not required to restructure a job or alter the schedule of employees as an accommodation under this article.
- (15) Job restructuring and altering the schedule of employees under this article applies only to minor or infrequent duties relating to the particular job held by the person with a disability.
- (16) If a person can accommodate a person with a disability under this article only by purchasing equipment or devices and hiring or retaining 1 or more individuals as readers or interpreters, the person shall, subject to subsections (2) to (13) and subsection (17), purchase the equipment or devices and hire or retain 1 or more individuals as readers or interpreters to accommodate that person with a disability. However, if the person can accommodate that person with a disability by purchasing equipment or devices or by hiring or retaining 1 or more individuals as readers or interpreters, the person shall consult the person with a disability and, subject to subsections (2) to (13) and subsection (17), choose whether to purchase equipment or devices or hire or retain 1 or more individuals as readers or interpreters.
- (17) Subsections (2) to (16) do not apply to either of the following:
  - (a) A public employer. As used in this subdivision, "public employer" means this state or a political subdivision of this state.
  - (b) An organization exempt from taxation under section 501 (c)(3) of the internal revenue code of 1986.
- (18) A person with a disability may allege a violation against a person regarding a failure to accommodate under this article only if the person with a disability notifies the person in writing of the need for accommodation within 182 days after the date the person with a disability knew or reasonably should have known that an accommodation was needed.
- (19) A person shall post notices or use other appropriate means to provide all employees and job applicants with notice of the requirements of subsection (18).

Sec. 211. A person may, under this article, do 1 or more of the following:

- (a) Establish employment policies, programs, procedures, or work rules regarding the use of alcoholic liquor or the illegal use of drugs.
- (b) Apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, transfer system, scheduling system, assignment system, or attendance plan if those standards of compensation or terms, conditions, or privileges of employment are not a subterfuge to evade the purposes of this article.
- (c) Establish uniform policies requiring employees who have been absent from work because of illness or injury to submit evidence of the ability to return to work. This subdivision does not allow a person to establish a policy requiring only persons with disabilities to submit evidence of the ability to return to work.
- (d) Either of the following:
  - (i) Prohibit an employee who is being compensated under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, for an injury arising out of and in the course of his or her employment with that person from returning to work in a restructured job.
  - (ii) Require an employee who is being compensated under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, for an injury arising out of and in the course of his or her employment with that person to return to work as provided by law, if the person accommodates the employee as required under this article.

Sec. 212. The department of civil rights shall offer education and training programs to employers, labor organizations, and employment agencies to assist employers, labor organizations, and employment agencies in understanding the requirements of this article.

Sec. 213. Nothing in this article shall be construed to conflict with the Elliott-Larsen civil rights act, Act No. 453 of the Public Acts of 1976, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws.

Sec. 214. For purposes of this act, an accommodation required under this article shall not be construed to be preferential treatment or an employee benefit.

### ARTICLE 3

Sec. 301. As used in this article:

- (a) "Place of public accommodation" means a business, educational institution, refreshment, entertainment, recreation, health, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.
- (b) "Public service" means a public facility, department, agency, board, or commission, owned, operated, or managed by or on behalf of this state or a subdivision of this state, a county, city, village, township, or independent or regional district in this state or a tax exempt private agency established to provide service to the public, except that public service does not include a state or county correctional facility with respect to actions or decisions regarding an individual serving a sentence of imprisonment.

Compiler's Note: Enacting section 1. This amendatory act is curative and intended to correct any misinterpretation of legislative intent in the court of appeals decision in *Doe v Department of Corrections*, 236 Mich App 801 (1999). This legislation further expresses the original intent of the legislature that an individual serving a sentence of imprisonment in a state or county correctional facility is not within the purview of this act.

Sec. 302. Except where permitted by law, a person shall not:

- (a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.
- (b) Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.

Sec. 303. This article shall not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation, or if it is licensed, chartered, or certified by the state or any of its political subdivisions.

### ARTICLE 4

Sec. 401. As used in this article, "educational institution" means a public or private institution or a separate school or department of a public or private institution, includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, school district, or university, and a business, nursing, professional, secretarial, technical, or vocational school, and includes an agent of an educational institution.

Sec. 402. An educational institution shall not do any of the following:

- (a) Discriminate in any manner in the full utilization of or benefit from the institution, or the services provided and rendered by the institution to an individual because of a disability that is unrelated to the individual's ability to utilize and benefit from the institution or its services, or because of the use by an individual of adaptive devices or aids.
- (b) Exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, and privileges of the institution, because of a disability that is unrelated to the individual's ability to utilize and benefit from the institution, or because of the use by an individual of adaptive devices or aids.
- (c) Make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or make or keep a record, concerning the disability of an applicant for admission for reasons contrary to the provisions or purposes of this act.
- (d) Print or publish or cause to be printed or published a catalog or other notice or advertisement indicating a preference, limitation, specification, or discrimination based on the disability of an applicant that is unrelated to the applicant's ability to utilize and benefit from the institution or its services, or the use of adaptive devices or aids by an applicant for admission to the educational institution.
- (e) Announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of a disability that is unrelated to the group or member's ability to utilize and benefit from the institution or its services, or because of the use by the members of a group or an individual in the group of adaptive devices or aids.
- (f) Develop a curriculum or utilize textbooks and training or learning materials which promote or foster physical or mental stereotypes.

Sec. 403. An educational institution may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to persons with disabilities if the plan is filed with the commission, under rules of the commission and the commission has not disapproved the plan.

## ARTICLE 5

Sec. 501. As used in this article:

- (a) "Housing accommodation" includes improved or unimproved real property, or a part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of 1 or more persons.
- (b) "Immediate family" means a spouse, parent, child, or sibling.
- (c) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these persons.
- (d) "Real estate transaction" means the sale, exchange, rental, or lease of real property, or an interest therein.
- (e) "Real property" includes a building, structure, mobile home, real estate, land, mobile home park, trailer park, tenement, leasehold, or an interest in a real estate cooperative or condominium.

Sec. 502. (1) An owner or any other person engaging in a real estate transaction, or a real estate broker or salesman shall not, on the basis of a disability of a buyer or renter, of a person residing in or intending to reside in a dwelling after it is sold, rented, or made available, or of any person associated with that buyer or renter, that is unrelated to the individual's ability to acquire, rent, or maintain property or use by an individual of adaptive devices or aids:

- (a) Refuse to engage in a real estate transaction with a person.
- (b) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.

- (c) Refuse to receive or fail to transmit a bona fide offer to engage in a real estate transaction from a person.
  - (d) Refuse to negotiate for a real estate transaction with a person.
  - (e) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is available, fail to bring a property listing to a person's attention, refuse to permit a person to inspect real property or otherwise deny or make real property unavailable to a person.
  - (f) Make, print, circulate, post, or mail or cause to be made or published a statement, advertisement, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect to a real estate transaction.
  - (g) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.
  - (h) Discriminate against a person in the brokering or appraising of real property.
- (2) A person shall not deny a person access to or membership or participation in a multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting real property, or discriminate against a person in the terms or conditions of that access, membership, or participation.

Sec. 503. Section 502 shall not apply to the rental of a housing accommodation in a building which contains housing accommodations for not more than 2 families living independently of each other, if the owner or a member of the owner's immediate family resides in 1 of the housing accommodations, or to the rental of a room or rooms in a single housing dwelling by a person if the lessor or a member of the lessor's immediate family resides therein.

Sec. 504. A person shall not discriminate on the basis of a disability in making or purchasing loans for acquiring, constructing, improving, repairing, or maintaining real property, or in providing other financial assistance secured by or otherwise related to real property.

Sec. 505. Nothing in this article shall be considered to prohibit an owner, lender, or his or her agent from requiring that an applicant who seeks to buy, rent, lease, or obtain financial assistance for housing accommodations supply information concerning the applicant's financial, business, or employment status or other information designed solely to determine the applicant's credit worthiness, but not concerning disabilities for reasons contrary to the provisions or purposes of this act.

Sec. 506. A person shall not represent, for the purpose of inducing a real estate transaction from which he or she may benefit financially or otherwise, that a change has occurred or will or may occur in the composition with respect to persons with disabilities of the owners or occupants in the block, neighborhood, or area in which the real property is located, or represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

- Sec. 506a. (1) A person shall not do any of the following in connection with a real estate transaction:
- (a) Refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the person with a disability if those modifications may be necessary to afford the person with a disability full enjoyment of the premises. In the case of a rental, the landlord may, if reasonable, make permission for a modification contingent on the renter's agreement to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
  - (b) Refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person with a disability equal opportunity to use and enjoy residential real property.
  - (c) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, fail to include all of the following features:

- (i) The dwellings have at least 1 building entrance on an accessible route, unless that is impractical because of the terrain or unusual characteristics of the site.
  - (ii) The public and common use portions of the dwellings are readily accessible to and usable by persons with disabilities.
  - (iii) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons with disabilities in wheelchairs.
  - (iv) All premises within covered multifamily dwellings contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and kitchens and bathrooms designed so that an individual in a wheelchair can maneuver about the space.
- (2) As used in the section, “covered multifamily dwellings” means buildings consisting of 4 or more units if the buildings have 1 or more elevators, and ground floor units in other buildings consisting of 4 or more units.

Sec. 507. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to individuals who have disabilities, if the plan is filed with the commission under rules of the commission and the commission has not disapproved the plan.

## ARTICLE 6

Sec. 601. This act shall be administered by the civil rights commission. The commission may promulgate rules to carry out this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

Sec. 602. A person or 2 or more persons shall not do the following:

- (a) Retaliate or discriminate against a person because the person has opposed a violation of this act, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this act.
- (b) Aid, abet, incite, compel, or coerce a person to engage in a violation of this act.
- (c) Attempt directly or indirectly to commit an act prohibited by this act.
- (d) Willfully interfere with the performance of a duty or the exercise of a power by the commission or any of its authorized representatives.
- (e) Willfully obstruct or prevent a person from complying with this act or an order issued.
- (f) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by article 5.

Sec. 603. A person shall not violate the terms of an adjustment order made under this act.

Sec. 604. Nothing in this act shall be interpreted as invalidating any other act that establishes or provides programs or services for persons with disabilities.

Sec. 605. A complaint alleging an act prohibited by this act shall be subject to the same procedures as a complaint alleging an unfair employment practice under Act No. 453 of the Public Acts of 1976, as amended, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws.

Sec. 606 (1) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both.

- (2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, or for the county where the person against whom the civil complaint is filed resides or has his or her principal place of business.
- (3) As used in subsection (1), “damages” means damages for injury or loss caused by each violation of this act, including reasonable attorneys’ fees.
- (4) The amount of compensation awarded for lost wages under this act for an injury under article 2 shall be reduced by the amount of compensation received for lost wages under the worker’s disability



compensation act of 1969, Act No. 317 of the public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws, for that injury and by the present value of the future compensation for lost wages to be received under Act No. 317 of the Public Acts of 1969 for that injury.

- (5) A person with a disability may not bring a civil action under subsection (1) for a failure to accommodate under article 2 unless he or she has notified the person of the need for accommodation as required under section 210(18). This subsection does not apply if the person failed to comply with the requirements of section 210(19).

Sec. 607. This act shall not diminish the right of a person to seek direct and immediate legal or equitable remedies in the courts of this state.

Section 2. Section 207 of Act No. 220 of the Public Acts of 1976, being section 37.1207 of the Compiled Laws of 1970, is repealed.

\_\_\_\_\_  
Secretary of the Senate.

\_\_\_\_\_  
Clerk of the House of Representatives.

Approved \_\_\_\_\_

\_\_\_\_\_  
Governor.

## **Title VIII of the U.S. Civil Rights Act “Fair Housing Act”**

<http://www.usdoj.gov/crt/housing/title8.htm>

Prohibits discrimination in the sale, rental, purchase, lease, financing and/or advertising of housing based upon race, color, religion, sex, national origin, handicap and familial status.

Fair Housing Act applies to all housing except owner-occupied 1 to 4 unit dwellings and housing for older persons where persons 55 and older are concentrated or designated to assisting elderly people.

## FAIR HOUSING ACT

### **Sec. 800. [42 U.S.C. 3601 note] Short Title**

This title may be cited as the "Fair Housing Act".

### **Sec. 801. [42 U.S.C. 3601] Declaration of Policy**

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

### **Sec. 802. [42 U.S.C. 3602] Definitions**

As used in this subchapter--

- (a) "Secretary" means the Secretary of Housing and Urban Development.
- (b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (c) "Family" includes a single individual.
- (d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 [of the United States Code], receivers, and fiduciaries.
- (e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- (f) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, 806, or 818 of this title.
- (g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.
- (h) "Handicap" means, with respect to a person--

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(i) "Aggrieved person" includes any person who--

(1) claims to have been injured by a discriminatory housing practice; or

(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Complainant" means the person (including the Secretary) who files a complaint under section 810.

(k) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with--

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(l) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

(m) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(n) "Respondent" means--

(1) the person or other entity accused in a complaint of an unfair housing practice; and

(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

(o) "Prevailing party" has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

**[42 U.S.C. 3602 note]** Neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

### **Sec. 803. [42 U.S.C. 3603] Effective dates of certain prohibitions**

(a) Subject to the provisions of subsection (b) of this section and section 807 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 of this title shall apply:

(1) Upon enactment of this subchapter, to--

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: **Provided**, That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

(b)Nothing in section 804 of this title (other than subsection (c)) shall apply to--

(1) any single-family house sold or rented by an owner: **Provided**, That such private individual owner does not own more than three such single-family houses at any one time: **Provided further**, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: **Provided further**, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: **Provided further**, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 804(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2)rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c)For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if--

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

## **Sec. 804. [42 U.S.C. 3604] Discrimination in sale or rental of housing and other prohibited**

## practices

As made applicable by section 803 of this title and except as exempted by sections 803(b) and 807 of this title, it shall be unlawful--

- (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.
- (b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.
- (c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.
- (d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.
- (f)
  - (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of--
    - (A) that buyer or renter,
    - (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
    - (C) any person associated with that buyer or renter.
  - (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of--

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes--

(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwelling in such a manner that--

(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;



(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)

(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

(D) Nothing in this title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

(6)

(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to receive and process complaints or otherwise engage in enforcement activities under this title.

(B) Determinations by a State or a unit of general local government under

paragraphs (5)(A) and (B) shall not be conclusive in enforcement proceedings under this title.

(7) As used in this subsection, the term "covered multifamily dwellings" means--

(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

(B) ground floor units in other buildings consisting of 4 or more units.

(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

## **Sec. 805. [42 U.S.C. 3605] Discrimination in Residential Real Estate-Related Transactions**

(a) In General.--It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Definition.--As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance--

(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling;  
or

(B) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

(c) Appraisal Exemption.--Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

## **Sec. 806. [42 U.S.C. 3606] Discrimination in provision of brokerage services**

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

## **Sec. 807. [42 U.S.C. 3607] Religious organization or private club exemption**

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)

(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

(2) As used in this section "housing for older persons" means housing --

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by persons 55 years of age or older, and--

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2)(B) or (C): **Provided**, That new occupants of such housing meet the age requirements of sections (2)(B) or (C); or

(B) unoccupied units: **Provided**, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2)(B) or (C).

(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5)

(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that--

(i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

- (ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

## **Sec. 808. [42 U.S.C. 3608] Administration**

### **(a) Authority and responsibility**

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

### **(b) Assistant Secretary**

The Department of Housing and Urban Development shall be provided an additional Assistant Secretary.

### **(c) Delegation of authority; appointment of administrative law judges; location of conciliation meetings; administrative review**

The Secretary may delegate any of his functions, duties and power to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of title 5 [of the United States Code]. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

### **(d) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes**

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

### **(e) Functions of Secretary**

The Secretary of Housing and Urban Development shall--

- (1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;
- (2) publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Congress--

(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which--

(i) investigations are not completed as required by section 810(a)(1)(B);

(ii) determinations are not made within the time specified in section 810(g); and

(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g);

(3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;

(5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and

(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to

those characteristics as the Secretary determines to be necessary or appropriate).

(f) The provisions of law and Executive orders to which subsection (e)(6) applies are--

(1) title VI of the Civil Rights Act of 1964;

(2) title VIII of the Civil Rights Act of 1968;

(3) section 504 of the Rehabilitation Act of 1973;

(4) the Age Discrimination Act of 1975;

(5) the Equal Credit Opportunity Act;

(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

(7) section 8(a) of the Small Business Act;

(8) section 527 of the National Housing Act;

(9) section 109 of the Housing and Community Development Act of 1974;

(10) section 3 of the Housing and Urban Development Act of 1968;

(11) Executive Orders 11063, 11246, 11625, 12250, 12259, and 12432; and

(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.

## **Sec. 808a. [42 U.S.C. 3608a] Collection of certain data**

(a) In general

To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88-352 [42 U.S.C.A. {2000d et seq.}] and title VIII of Public Law 90-284 [42 U.S.C.A. {3601 et seq.}]), the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary involved determines such collection to be appropriate.

(b) Reports to Congress

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) of this section during the preceding year.

**Sec. 809. [42 U.S.C. 3609] Education and conciliation; conferences and consultations; reports**

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of Title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

**Sec. 810. [42 U.S.C. 3610] Administrative Enforcement; Preliminary Matters**

(a) Complaints and Answers. --

(1)

(A)

(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such a complaint--

(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time



limits and choice of forums provided under this title;

(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint;

(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(2)

(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigative Report and Conciliation. --

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

(5)

(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing--

(i) the names and dates of contacts with witnesses;

(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(iii) a summary description of other pertinent records;

(iv) a summary of witness statements; and

(v) answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

(c) Failure to Comply With Conciliation Agreement. -- Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

(d) Prohibitions and Requirements With Respect to Disclosure of Information. --

(1) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent proceeding under this title without the written consent

of the persons concerned.

(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) Prompt Judicial Action. --

(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 812 of this title.

(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under section 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) Referral for State or Local Proceedings. --

(1) Whenever a complaint alleges a discriminatory housing practice--

(A) within the jurisdiction of a State or local public agency; and

(B) as to which such agency has been certified by the Secretary under this subsection; the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless--

(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) the certified agency, having so commenced such proceedings, fails to carry

forward such proceedings with reasonable promptness; or

(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)

(A) The Secretary may certify an agency under this subsection only if the Secretary determines that--

(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) the procedures followed by such agency;

(iii) the remedies available to such agency; and

(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

(g) Reasonable Cause Determination and Effect. --

(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)

(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

(B) Such charge--

(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(ii) shall be based on the final investigative report; and

(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief

with respect to that discriminatory housing practice.

(h) Service of Copies of Charge. -- After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served--

(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) on each aggrieved person on whose behalf the complaint was filed.

## **Sec. 811. [42 U.S.C. 3611] Subpoenas; Giving of Evidence**

(a) In General. -- The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

(b) Witness Fees. -- Witnesses summoned by a subpoena under this title shall be entitled to same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

(c) Criminal Penalties. --

(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

(2) Any person who, with intent thereby to mislead another person in any proceeding under this title--

(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(C) willfully mutilates, alters, or by any other means falsifies any documentary

evidence;

shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

## **Sec. 812. [42 U.S.C. 3612] Enforcement by Secretary**

(a) Election of Judicial Determination. -- When a charge is filed under section 810, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) Administrative Law Judge Hearing in Absence of Election. -- If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) Rights of Parties. -- At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

(d) Expedited Discovery and Hearing. --

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

(e) Resolution of Charge. -- Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) Effect of Trial of Civil Action on Administrative Proceedings. -- An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(g) Hearings, Findings and Conclusions, and Order. -- (

(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent--

(A) in an amount not exceeding \$11,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(B) in an amount not exceeding \$27,500 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

(C) in an amount not exceeding \$55,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;



except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)--

(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

(h) Review by Secretary; Service of Final Order. --

(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) Judicial Review. --

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

(j) Court Enforcement of Administrative Order Upon Petition by Secretary. --

(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

(k) Relief Which May Be Granted. --

(1) Upon the filing of a petition under subsection (i) or (j), the court may--

(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

(C) enforce such order to the extent that such order is affirmed or modified.

(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

(l) Enforcement Decree in Absence of Petition for Review. -- If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement--

(1) which is filed by the Secretary under subsection (j) after the end of such day; or

(2) under subsection (m).

(m) Court Enforcement of Administrative Order Upon Petition of Any Person Entitled to Relief. -- If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) Entry of Decree. -- The clerk of the court of appeals in which a petition for enforcement is filed under subsection (1) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) Civil Action for Enforcement When Election Is Made for Such Civil Action. --

(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's Fees. -- In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

## **Sec. 813. [42 U.S.C. 3613] Enforcement by Private Persons**

(a) Civil Action. --

(1)

(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

(b) Appointment of Attorney by Court. -- Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may--

(1) appoint an attorney for such person; or

(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(c) Relief Which May Be Granted. --

(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

(d) Effect on Certain Sales, Encumbrances, and Rentals. -- Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

(e) Intervention by Attorney General. -- Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

## **Sec. 814. [42 U.S.C. 3614] Enforcement by the Attorney General**

(a) Pattern or Practice Cases. -- Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(b) On Referral of Discriminatory Housing Practice or Conciliation Agreement for Enforcement.

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(1)

(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(2)

(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

(c) Enforcement of Subpoenas. -- The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(d) Relief Which May Be Granted in Civil Actions Under Subsections (a) and (b). --

(1) In a civil action under subsection (a) or (b), the court--

(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title;

(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

(C) may, to vindicate the public interest, assess a civil penalty against the respondent--

(i) in an amount not exceeding \$55,000, for a first violation; and

(ii) in an amount not exceeding \$110,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

(e) Intervention in Civil Actions. -- Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

## **Sec. 814a. Incentives for Self-Testing and Self-Correction**

(a) Privileged Information. --

(1) Conditions For Privilege. -- A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person-

(A) conducts, or authorizes an independent third party to conduct, a self- test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this title by that person; and

(B) has identified any possible violation of this title by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.

(2) Privileged Self-Test. -- If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test-

(A) shall be privileged; and

(B) may not be obtained or used by any applicant, department, or agency in any --

(i) proceeding or civil action in which one or more violations of this title are alleged; or

(ii) examination or investigation relating to compliance with this title.

(b) Results of Self-Testing. --

(1) In General. -- No provision of this section may be construed to prevent an aggrieved person, complainant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or in any examination or investigation of compliance with this title if --

(A) the person to whom the self-test relates or any person with lawful access to the report or the results --

(i) voluntarily releases or discloses all, or any part of, the report or results to the aggrieved person, complainant, department, or agency, or to the general public; or

(ii) refers to or describes the report or results as a defense to charges of violations of this title against the person to whom the self-test relates; or

(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.

(2) Disclosure for Determination of Penalty or Remedy. -- Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B) --

(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

(B) may not be used in any other action or proceeding.

(c) Adjudication. -- An aggrieved person, complainant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in --

(1) a court of competent jurisdiction; or

(2) an administrative law proceeding with appropriate jurisdiction.

(2) Regulations. --

(A) In General. -- Not later than 6 months after the date of enactment of this Act, in consultation with the Board and after providing notice and an opportunity for



public comment, the Secretary of Housing and Urban Development shall prescribe final regulations to implement section 814A of the Fair Housing Act, as added by this section.

(B) Self-Test. --

(i) Definition. -- The regulations prescribed by the Secretary under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 814A of the Fair Housing Act, as added by this section.

(ii) Requirement for Self-Test. -- The regulations prescribed by the Secretary under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of the compliance by a person engaged in residential real estate related lending activities with the Fair Housing Act.

(iii) Substantial Similarity to Certain Equal Credit Opportunity Act Regulations. -- The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Board to carry out section 704A of the Equal Credit Opportunity Act, as added by this section.

(C) Applicability. --

(1) In General. -- Except as provided in paragraph (2), the privilege provided for in section 704a of the Equal Credit Opportunity Act or section 814a of the Fair Housing Act (as those sections are added by this section) shall apply to a self-test (as that term is defined pursuant to the regulations prescribed under subsection (a)(2) or (b)(2) of this section, as appropriate) conducted before, on, or after the effective date of the regulations prescribed under subsection (a)(2) or (b)(2), as appropriate.

(2) Exception. -- The privilege referred to in paragraph (1) does not apply to such a self-test conducted before the effective date of the regulations prescribed under subsection (a) or (b), as appropriate, if --

(A) before that effective date, a complaint against the creditor or person engaged in residential real estate related lending activities (as the case may be) was --

(i) formally filed in any court of competent jurisdiction; or

(ii) the subject of an ongoing administrative law proceeding;

(B) in the case of section 704a of the Equal Credit Opportunity Act, the creditor has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section; or

(C) in the case of section 814a of the Fair Housing Act, the person engaged in residential real estate related lending activities has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section.

## **Sec. 815. [42 U.S.C. 3614a] Rules to Implement Title**

The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.

## **Sec. 816. [42 U.S.C. 3615] Effect on State laws**

Nothing in this subchapter shall be constructed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

## **Sec. 817. [42 U.S.C. 3616] Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in**

### **Federal Register**

The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

## **Sec. 818. [42 U.S.C. 3617] Interference, coercion, or intimidation; enforcement by civil action**

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of this title.

## **Sec. 819. [42 U.S.C. 3618] Authorization of appropriations**

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

## **Sec. 820. [42 U.S.C. 3619] Separability of provisions**

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

## **(Sec. 12 of 1988 Act). [42 U.S.C. 3601 note] Disclaimer of Preemptive Effect on Other Acts**

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.

## **(Sec. 13 of 1988 Act). [42 U.S.C. 3601 note] Effective Date and Initial Rulemaking**

(a) Effective Date. -- This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) Initial Rulemaking. -- In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

## **(Sec. 14 of 1988 Act). [42 U.S.C. 3601 note] Separability of Provisions**

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

## **Section 901. (Title IX As Amended) [42 U.S.C. 3631] Violations; bodily injury; death; penalties**

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with--

(a) any person because of his race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin and because he is or has been selling, purchasing, renting, financing occupying, or

contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from--

(1) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection(a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate--

shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

## TITLE 28, UNITED STATES CODE, AS AMENDED

### Section 2341. Definitions

As used in this chapter --

(1) "clerk" means the clerk of the court in which the petition for the review of an order, reviewable under this chapter, is filed;

(2) "petitioner" means the party or parties by whom a petition to review an order, reviewable under this chapter, is filed; and

(3) "agency" means --

(A) the Commission, when the order sought to be reviewed was entered by the Federal

Communications Commission, the Federal Maritime Commission, the Interstate Commerce Commission, or the Atomic Energy Commission, as the case may be;

(B) the Secretary, when the order was entered by the Secretary of Agriculture;

(C) the Administration, when the order was entered by the Maritime Administration; and

(D) the Secretary, when the order is under section 812 of the Fair Housing Act.

## Section 2342. Jurisdiction of court of appeals

The court of appeals (other than the United States Court of Appeals for the Federal Circuit) has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of-

(1) all final orders of the Federal Communications Commission made reviewable by section 402 (a) of title 47;

(2) all final orders of the Secretary of Agriculture made under chapters 9 and 20A of title 7, except orders issued under section 210(e), 217a, and 499g(a) of title 7;

(3) all rules, regulations, or final orders of-

(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, 41, or 43 of the Shipping Act, 1916 (46 U.S.C.App. 802, 803, 808, 835, 839, and 841(a); and

(B) the Federal Maritime Commission issued pursuant to--

(i) section 23, 25, or 43 of the Shipping Act, 1916 (46 U.S.C.App. 822, 824, or 841a);

(ii) section 19 of the Merchant Marine Act, 1920 (46 U.S.C.App. 876);

(iii) section 2, 3, 4, or 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C.App. 844, 845, 845a, or 845b);

(iv) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C.App. 1713 or 1716); or

(v) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C.App. 817d(d) or 817e(d);

(4) all final orders of the Atomic Energy Commission made reviewable by section 2239 of title

42;

(5) all rules, regulations, or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title and all final orders of such Commission made reviewable under section 11901(j)(2) of Title 49, United States Code; and

(6) all final orders under section 812 of the Fair Housing Act.

Jurisdiction is invoked by filing a petition as provided by section 2344 of this title.